Supreme Court, U.S.
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IN THE
SUPREME COURT OF THE UNITED STATES

PEPI SCHAFLER

Petitioner

v

RANDALL R. NEWSOME

Respondent

On Petition for Writ of Certiorari
To The Ninth Circuit Court of Appeals

PETITION FOR WRIT OF CERTIORARI

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30 pp

STATEMENT OF ISSUE

Respondent Randall R. Newsome is an Article I hired bankruptcy court judge in Oakland California. Petitioners contact with him was caused by the reliance on the commonly considered truism that a court is a court. Well in respondent Newsome petitioner unexpectedly fell into the clutches of a corrupt , disingenuous, abusive bully, a sexist lawless depraved predator, and a reign of terror .In local circles this is known, and there are numerous complaints about him to the Judicial Council of the ninth circuit, some by litigants some by attorneys. One is a published complaint. Petitioner knew none of that, as she had a bankruptcy matter in the State of Maryland that was short of one final signature when a grave personal tragedy demanded petitioner's immediate relocation to California, and Oakland was chosen from the map for transfer of same. There was no one to warn petitioner of the hazard that is hidden there in plain sight, in the person of respondent. He terrorized petitioner for several years, threatened her, suborned a burglary at her domicile, told petitioner that he has decided -he routinely practices law, advocating for a set of cronies -that he would seize her assets and hand them over to the cronies, and proceeded to do so. The petitioner filed a civil action against him, **not seeking damages** , just as a start to prove his gross malfeasance.

QUESTIONS PRESENTED

1). Is an individual who is hired and employed as an Article I judge in bankruptcy court, and is an abusive , disingenuous, depraved predator, immune from a civil suit in which damages are not sought?

2. Did the ninth circuit court of appeals misstate the holding by this Honorable Court in *Cleavinger v Saxner 474 U.S.193(1985)?*

3. Was this misstatement a deliberate attempt to help out respondent, and does that therefore represent a due process violation of petitioner's rights?

4. Have the appropriate courts and judicial entities abdicated their responsibility to the public, to litigants, the constitution, the country by failing to monitor judicial conduct?

5. The district court ha[illegible]e duty to supervise the bankruptcy court an inferior court of same, and the court of appeals is empowered to review and validate the conduct of the district court. Have these entities turned away and ignored the misconduct and corruption of the bankruptcy court?

6. Are the constitutional rights that attach to every individual in the United States , arrogantly and abusively trampled in bankruptcy court?

7. Does ignoring the corruption, abuse and malfeasance by judges and attorneys who plunder the bankruptcy estates, which in an other forum would be prosecuted as criminal acts yet in bankruptcy are ignored, taint the bankruptcy system unfairly ?

8. Does a hired Article I judge, who presumably attended judge's school have a duty to obey the law, rather than create his own?

9. May a hired judge like respondent Newsome practice law during his employment, i.e. argue and represent the side he has an interest in?

10. Does petitioner and the public have a right to a judge, especially one hired for the bankruptcy court, who is not abusive, insulting, threatening , disingenuous and deceptive, dismissive , sarcastic , sexist, unintelligent , antisemitic, corrupt and biased?

11. Does petitioner and the public have a right to be protected from these sort of individual hired as judges , with the same effort that the government protects the public from hazardous materials, harmful professionals, bad food, bad medicines, and other ills?

12.. Respondent suborned a stalker -burglar-trespasser to follow to stalk petitioner, burglarize her residence and lie about it. Did respondent violate petitioner's constitutional rights?

13. Does the protectionism of the malfeasant article I judge legitimize his deviancy?

14. Since respondent Newsome did not have jurisdiction in the matter involving petitioner, nor was there a party in interest, i.e. a party with standing in the controversy, did Newsome commit a crime by stealing petitioners assets to pay off his cronies?

15. Since Newsome did not have jurisdiction in this matter, and certainly not to steal petitioner 's assets for his cronies, might he not be liable for damages as well?

15. What were the cronies being paid off for? Private matters?

16. Did Newsome have any right on this planet under any scenario, to hunt, terrorize, abuse, insult , stalk, defame this petitioner , suborn a burglary, falsely accuse her so he could steal her assets for his use for the cronies?

17. Newsome has covered up his thievery calling it "the estate" Since the creditors were discharged in March 1996 and never came forward again, was petitioner the victim of extortion by a crook?

18. If as Newsome would allege that certain assets were not properly scheduled on the chapter 7 petition, why did he not allow petitioner to withdraw her petition and vacate the discharge as she sought pursuant to 11 USC # 707 and #727 which would have put everyone back where they were before March 26, 1996?

19 Was it because there would have been nothing for him to steal for the cronies?

20. Does respondent Newsome abuse and prostitute his job as a federal employee?

21. Since he said that the first time he saw petitioner that he would take her assets and give them to the cronies , was this sexism gone berserk? Unbridled antisemitism?

22. Is Randall Newsome just a common crook and a swindler that sized up petitioner as vulnerable , therefore an "easy mark" to rob ?

RULE 29.6 CORPORATE DISCLOSURE STATEMENT

Petitioner hereby declares that there are no corporate interests involved in this matter.

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JURISDICTION OF THIS HONORABLE COURT ON WRIT OF CERTIORARI

Article III Section 2 , of the United States Constitution vests the Supreme Court with the judicial power and jurisdiction to all cases and controversies in law and equity, and appellate jurisdiction to same. Pursuant to 28 USCA #1651 (a) the Supreme Court and all courts established by an Act of Congress may issue all writs necessary and appropriate in aid of their respective jurisdictions and agreeable to the principles and the usage of law. Pursuant to 28 USCA # 1254 (i)cases in the court of appeals may be reviewed by Writ of Certiorari granted upon the petition of any party to a civil or criminal case, before or after rendition of judgment. As Justice Stevens said in *Florida v Rodriguez 469 U.S. 1 (1984)* " as the court of last resort in the federal system, we have supervisory authority and therefore must occasionally perform pure error correcting functions in federal litigation".

DECISIONS IN THE LOWER COURTS

The ninth circuit court of appeals denied rehearing en banc on May 19, 2003, from a decision of March 27 2003. The district court dismissed the claim on March 20, 2002.

STATEMENT OF FACTS

Petitioner placed herself in the proximity of respondent Randall Newsome , who is employed as a bankruptcy judge in the court in Oakland California, unknowingly and based on beliefs cultivated in society since the beginning of civilization that whether judging pies at the country fair, or the leader of a nation, whether biblical, tribal , or totally modern, a judge's conduct requires dignity, integrity, fairness , respect and consideration for both sides, for the facts and law, and if he does not measure up, he is not there. Petitioner's personal experience with the court system in various capacities, as an expert witness , consultant to a court in Maryland, friends and family which are part of the judiciary, and as a frequent visitor to this Honorable Court all created within petitioner the belief that a court is a court. She was unprepared for a hired corrupt disingenuous, malevolent , abusive, depraved, lawless predator who exploits his prey.

On March 26, 1996 a chapter 7 bankruptcy petition was filed by a Maryland law firm on behalf of petitioner who was a at the time a resident of Bethesda , Maryland. This was subsequent to nine years of litigation as a Plaintiff in an action for divorce in Buffalo ,New York. All of petitioner's debts, all the assets including those exempt under Maryland law, all obligors to petitioner were scheduled. The process proceeded according to the rules, the debts were discharged , the assets abandoned and the case closed by the court on July 7, 1996. Two years later in May 1998, the scorned former spouse contacted the former trustee, and promised him a bribe if he sought the reopening of the case on any pretext to harass the petitioner. The former trustee obviously did not disclose to the court on whose behalf he was acting or why: a bribe. The court reopened. The rules and standard proceedings were obviously not followed , because among other a vindictive scorned former spouse has no standing to seek it. Counsel informed petitioner that some of these private trustees are really sleazy , and frequently reopen cases seeking a bribe from one party or another; this process is called an ambush, and to dispose of this matter there were

two options: pay this former trustee a bigger bribe than promised by the ex spouse, or convert to chapter 13 and be rid of him. The later was on obvious choice and a motion to convert was approved by the court on October 28, 1998. The plan was approved although there were still a final confirmation to come. Concurrent with these goings on , a horrific personal tragedy was developing in California. Petitioner's only sibling, a well known individual part of the most famous think tank in the country, had unexpectedly been diagnosed with a terminal illness, and a very bad prognosis. It was imperative that petitioner relocate to California, to be with him, help his wife and child prolong or possibly save his life. The latest, by the end of December 1998, petitioner had to relocate. Petitioner moved the court to speed up the proceedings and explained the details. The court refused to cooperate. Petitioner being strongly socialized and therefore believing that a court is a court, asked that the matter be transferred to the Oakland ,California bankruptcy court. Inexplicably the court in Maryland set a hearing for February 25 which petitioner could not attend, and was excused by he court. But the hearing was held ex parte, and the former trustee fearing that he would not collect his bribe, because he had not sufficiently harassed petitioner , told the court a few lies-lies that could have been proven as such in 90 seconds. Consequently the court did not confirm the final plan, changed the matter back to the reopened chapter 7, and on March 3, 1999 transferred the case to Oakland California, and respondent Randall R. Newsome.

Petitioner brought her belief that "a court is a court" to California and was stunned was goes on in this court where respondent is employed: fact some of it is so astonishing and incredible, that it took a long time to internalize. Respondent Newsome is at the core of a corrupt mafia like enterprise that prostitutes the judicial system, the concept of a court, the title judge, and the Constitution. It is known to many, but there are insider connections that facilitate and assist in the cover up .Respondent Newsome does not act like a government employee, a public servant, but rather like an advocate for his equally corrupt cronies . To do that he ignores and therefore violates the law, the rights of litigants, and his conduct in the courtroom is like a nazi storm trooper or a plantation

owner in 18th century colonial America. 11 USCA # 5010 requires that when a bankruptcy case is reopened -a case may only be reopened at the behest of a creditor or the debtor-not by deceit - and nothing goes forward no people are hired, until an evidentiary hearing to determine facts. In the present matter no hearing was ever held because respondent Newsome does not need objective facts and evidence; he decides what are facts and law, and he just delivers that opinion. He does consult the cronies, which are a "phantom trustee" and the most corrupt attorney in the San Francisco Bay area: a perfect group to plunder bankruptcy estates. The "phantom trustee" is a man named Richard J. Spear who is really a bankruptcy cases sub contractor ,broker, procurer , some have other names for what he does, who is insider connected and for the past 30 years has been hired, i.e. had his name placed on about 2400 cases per year, in which he is the "phantom trustee". This amounts to more than 70.000 cases doubly plundered of their assets. 28 USCA # 756 holds that a hired trustee may only serve for one year, and despite the rules and stated commitment to equal opportunity .There can be no equal opportunity if one person gets his name i.e. is hired on virtually all the cases that come in. In all these cases the phantom trustee claims and receives the statutory fee allowed a trustee. Phantom trustee Spear, himself an attorney sub contracts these bankruptcy cases to attorneys who then plunder the rest of the bankruptcy estate money and call it "fees". Newsome hands them over. In the present matter the attorney is named Dennis D. Davis considered the most unethical unfit individual to be an attorney in the San Francisco area . Davis attempted a shameless fraud on the district court in *Re: Boyd 243 B.R. 756(2000),* causing district court judge Breyer to question his fitness to practice law. Spear and Davis , bounty hunters, swindlers and crooks are respondent Newsome's favored. Petitioner had expected a court and instead she was the prey for a gang, the mafia, who functioned in tandem with each other and Davis who at the first contact announced that he speaks for the court. As dreadful shamefully corrupt and dirty this sounds it was true to the extent that respondent Newsome did what Davis wanted.

Petitioner's sibling had died and she was in deep despair, and leaving for the east coast to spend a few weeks with family and friends. Since respondent Newsome had not complied with the bankruptcy rules requirement of #5010, which is the legal equivalent of a probable cause hearing , or any other evidentiary proceeding, on April 21 1999, filed a "motion to reclose the reopened case" which would serve the purpose of an evidentiary proceeding. Davis -the bounty hunter ,house favorite, and respondent Newsome's spokesman, informed petitioner that this motion will never be scheduled, never be heard, and the case will never be re closed, and he bounty hunter Davis did not want to wait until petitioner returned from the east coast. Petitioner did not have counsel, she did not yet know anyone, had not yet had the opportunity to seek counsel, and was perfect prey for depraved predators and bounty hunters. Davis was right that the motion to "reclose ' would never be heard, it was not; Newsome had ex parte contact with him and they decided jointly not to schedule it. The reason the motion would not be heard, and Davis did not want to wait much longer was that: **respondent Newsome had promised Davis that petitioner's assets would be given to him and the other cronies. He had to go bounty hunting for them, and he would make it all possible.**

Realizing that she had fallen into some gang that she was not able to deal with at this time, on May 29,1999 petitioner filed a motion pursuant to 11 USCA # 707 to dismiss her chapter 7 petition, and a 11 USCA # 727 motion to dismiss the discharge of same. These requests are permissible according to the rules , are routinely granted, put the debtor and creditors back in the position they were in before the filing and are in the public interest. These motions were likewise never scheduled. Not unlike maintaining a person on life support against their wishes to harvest their organs, **respondent Newsome kept petitioner in the system against her will so he could harvest her assets for Davis and the cronies, to prostitute the law and petitioner's rights as well as the creditors, so the bounty hunters may get the promised bounty. Whether or how he personally benefits is not as yet known by petitioner.**

What in retrospect seems incredibly naive and like writing to Hitler asking why he is Hitler , petitioner wrote a letter to Newsome on June 9, 1999 why Davis has unlimited access to the court, and petitioner none. Of course no response to that either.The first time petitioner encountered respondent Newsome -arranged by Davis- **he told her that her assets would be given by him to Davis.** Petitioner did not know whether he is drunk and an alcohol abuser, a drug addict, or suffers from a mental disorder, something still unknown. He has since repeated the same statement frequently all on the record.

What followed was a march to extort petitioners assets without any evidentiary proceeding ever, without any rights to it, without ever once mentioning petitioner's rights. Newsome suborned the hiring of a burglar-cum-investigator, who stalked petitioner and burglarized her residence, stealing all her records. Petitioner complained but he sneered some lies at her. Petitioner resides in a single home in a private development of individual homes with one street to enter and exit, the rest cul de sacs all private services , the police only enter when called, and the whole development is limited to residents and invitees When petitioner complained of the stalking, he had no comment, and re the burglary he insisted that the documents were taken from a common dumpster in a highrise apartment house.Not the first lie he has told .

Respondent Newsome is hired as a judge but he practices law. In two years of having to deal with him, petitioner has never heard the phantom trustee speak at all, and Davis has never made one single argument. Newsome argues on his behalf . There have been numerous complaints about Newsome to the ninth circuit judicial council about this matter and other , one a reported case:*In re: Charge of Judicial Misconduct, 62 F 3rd 320 (9th Cir 1995)*. The complainant a well know attorney, law school professor, and author. The judicial council makes excuses for him, some excuses silly and trite, and Newsome keeps going. Petitioner could not obtain counsel, even though she had contacted 10 attorneys, one the president of the bankruptcy section of the bar. They all declined to get involved with the corrupt, deceitful and predatory trio of Newsome, Davis, and Spear. Fearing that if they did, it would impact their ability to earn their living.

This Honorable Court is surely aware that the other courts that have a duty to be concerned about what goes on in bankruptcy court are not, and throughout this long nightmare every legal avenue of relief was closed to her. Nothing could be appealed because it requires permission from the bankruptcy court, and respondent Newsome frequently taunted petitioner with "what are you going to do if don't sign this order "? There was nothing to do but endure. When petitioner had completed her fact finding on the corrupt mafia like enterprise that Newsome is part of, and erroneously believing she had made a discovery never considering that his involvement is known and is by choice, he did not deny it instead sneered at her:" everyone around here does it " and retaliated against her. Newsome continued to terrorize petitioner, and she had no choice left other than turn over her assets , stocks and securities most of them representing her IRA exempt under Maryland law where the original petition was filed and therefore is the law of the case. The value in June 2000 of the securities turned over was around $450.000-475.000. Some of the attorneys that declined to represent petitioner, as they did not want get involved in the "bankruptcy mafia" suggested through a friend that petitoner file for summary adjudication, even though respondent Newsome will with 100% certainty rule against her, but at least there will be a legal vehicle to get into other courts. This is exactly what took place. As expected respondent Newsome ruled that the securities belong to the cronies. Ofcourse he would and did-the whole legal community knew that Respondent ordered the securities sold, -this liar had the nerve to call this swindle, theft and extortion :on behalf of the estate, when he knew that there is no estate , and the proceeds of the sale were going to the cronies cum gang members. Because of the drop in the stock market the securities were sold for $362.000 of which Davis received $289.000 as "interim "fees and the "phantom trustee" $50.000. The creditors rceived zero.

The debauchery of respondent Newsome with petitioner's money is astonishing. (1) Double billing , triple billing, even quadruple billing for the same "activity" is widespread. Newsome awarded the "gang' fees about $140.000 for trial expenses (2) Petitioner dares anyone to provide any evidence of a trial or even an evidentiary hearing in this matter. This borders on criminal acts of larceny and conversion, and extortion by trick. There are also" fees" for communicating with the ex spouse keeping him abreast of petitioners activities, this same spouse against whom petitioner has restraining orders. There is a trip to the cherry blossom festival in Washington DC, and New York City, tens of thousand of dollars for in house meetings, and on and on. they had to fill the pages to give respondent Newsome an alibi for stealing petitioner's assets and giving them to the cronies . Even if it is a false alibi. The last time petitioner was in Newsome's presence was on January 30, 2001 at which time he muttered a threat against her, and she has not been in his presence since.

The last proceeding involving Newsome was on April 25, 2001. Fortunately petitioner had counsel at that time, to represent her so she did not have to be in his presence, but could hear from the corridors what an abusive, bullying, lawless, lying, depraved predator respondent is. (3)

1. Newsome's response to the claim was copy of the whole case docket, not sure what this was intended to mean, therefore the complete docket is part of the case. 2. In her appeal to the 9th circuit court of appeals petitioner included all of the "billing schedules" both raw as provided to obfuscate the fraudulent multiple and false billing which may not have been necessary as Newsome did not care and the streamlined ones. 3. Petitioner had also included the transcript of this hearing in her appeal, but summarized some salient facts from it.

This transcript is extremely evocative as to why Newsome should have departed this job a long time ago. And how everything that is being said about him is true. In that transcript there are about 35 exchanges with counsel for petitioner and with Newsome as counsel for Davis. Davis spoke once. This is not new .The hearing had one matter scheduled, and suddenly respondent Newsome said "I want to decide the other matter now" to petitioner's very assertive statement repeated several times, that this matter was not calendared for that day and the local rules call for notice and a specific hearing, Newsome responded "so what ; I have decided " Counsel for petitioner pointed out that this is a due process violation, and a judge that is biased, who comes to work with decisions already made, and what about petitioners rights and he made light of it all. He repeated again to counsel that from the first day and times thereafter he had told petitioner that petitioner's assets would be given to the cronies. Newsome not only makes all his decisions with cronies ex parte in his bunker, but he makes them far in advance. Eventually to placate counsel for petitioner at least for the moment, Newsome said ok submit pleading by May 16th for the matter not on today's calendar - it was going to be a hearing. , but then whittled down to the submission of pleadings by May 16. This was a meaningless gesture because respondent Newsome is grossly disingenuous and signed the order with his decision on April 25, 01. Everything else was for show and an alibi .Randall Newsome has repeatedly insulted this petitioner, was abusive , dismissive, sarcastitc, was completely uncivilized ,predatory, and belongs in another job somewhere where he belongs.

ARGUMENT

THE NINTH CIRCUIT HAS MISINTERPRETED ,MISAPPLIED AND MISSTATED HE HOLDING OF THIS HONORABLE COURT

The substantive issue of this matter is a claim seeking to hold respondent

Newsome accountable for his malevolence, misconduct, abuse and terrorism toward petitioner by bringing before a jury to confirm it. **Petitioner seeks no damages.** In dismissing petitioner's appeal the ninth circuit court of appeals misstated, misapplied, and misinterpreted the opinion by this Honorable Court that is exactly on point to petitioners claim , and instead found some different holding therein. The case is *Cleavinger v Saxner, 474 US , 193 (1985).*

CLEAVINGER v SAXNER supra.

The ninth circuit court of appeals has held that any individual who is acting as a judge is immune from any suit and cited Cleavinger supra as standing for that proposition. (Appendix , appellate decision) . That is 100% false and completely opposite what this Honorable Court held. The holding in Cleavinger is completely on point with the instant case. The facts in Cleavinger are that a prison disciplinary committee was subject to suit by persons for various harm seeking injunctive and declaratory relief and damages. The district court on reconsideration reinstated the suit, and a jury trial found for plaintiffs holding that their fifth amendment rights ,due process rights have been violated and awarded damages. The seventh circuit court of appeal affirmed rejecting the appellants claim for absolute immunity. This Honorable Court affirmed in part , and dismissed in part. Justice Blackmun speaking for the Court held that petitioner's are entitled only to qualified immunity , dismissing the damages . This holding is exactly on point with petitioners claim: **no damages are sought, just a jury trial.** It is disturbing to consider that the court of appeals dismissed the appeal on the wrong view of the law.

RESPONDENT NEWSOME VIOLATED PETITIONERS CONSTITUTIONAL RIGHTS

Respondent Newsome has repeatedly and consistently violated petitioners Constitutional rights, doing so intentionally, both by omission and commission, and with malice in pursuit of his goal.

The violations of due process, equal protection ,right to property pursuant to the Fourth, Fifth, Sixth, and Fourteenth Amendment rights sacred to his employer the United States Government and all the people within, for the benefit of his cronies, and possibly his own. Our legal system holds the presumptions of everyone's innocence dear, until proven otherwise. Respondent perverted that, attaching the presumption of guilt to petitioner, so he can pillage and plunder her assets on behalf of the cronies. In *United States v Krass , 409 U.S. 434 (1973),* this Honorable Court held that "bankruptcy has no rights; it represents a legal relationship of an individual and his creditors, and the rights belong to the individual" Respondent Newsome elaborated on that: bankruptcy has no rights, petitioner has no rights, the only rights he recognized are his and his favored cronies .Having denied or thwarted any fact finding in the matter involving petitioner, having denied her the opportunity to withdraw the chapter 7 petition and the discharge, (see statement of facts)having stolen and converted her assets on behalf o the cronies, made a mockery of the system that employs him, and indicates how corrupt to the core respondent really is. In *Bush v Gore , 531 US 98 (2000)* this Honorable Court held that there can be no excuse for due process and equal protection violations.

THE NINTH CIRCUIT APPELLATE PANEL INACCURATELY STATED THAT PETITIONER DID NOT ALLEGE VIOLATIONS OF CONSTITUTIONAL RIGHTS, IN THE LOWER COURT.

The above assertion by the 9th Cir. Panel is inaccurate, and part of the system that is employed to cover up for respondent. The following are the first four lines of the title page of the complaint:

> "complaint for malicious prosecution, corruption,
> deception, sleazy and overt mendacity, bias
> violations of Constitutional rights pursuant to
> the fourth, fifth and fourteenth Amendment"

The ninth circuit court of appeals and the district court, along with the judicial council of the ninth circuit are really intent are covering for respondent Randall Newsome. There are quite a few complaints about Newsome to the Judicial Council in addition to the one

that is published: In re :*Charge of Judicial Misconduct 62 F 3rd , 320 (9th Cir 1995),* which are from attorneys and litigants. The Chief Judge must have a library of letters at the ready to send, some of them rather trite and inapplicable, anything to just excuse and cover up the misconduct .

RANDALL NEWSOME IS NOT IMMUNE TO SUIT AND ACCOUNTABILITY. HIS IMMUNITY IS LIMITED.

The District Court and the Ninth Circuit Court of Appeals , have misstated, misapplied and generally distorted the law to the facts and the substance of the instant claim. Respondent Newsome is immune to damages not accountability. Petitioner never sought damages, as acknowledged by respondent in his answer to the complaint, in District Court though falsely claimed immunity nevertheless.

The application of improper law for the purpose of dismissal is disturbing and hints at impermissible favoritism by the lower courts. An attitude of "we work for the same employer- the United States Government and we have to cover for each other." If one were to accept this position as true, it would suggest that Newsome is king of the universe. The US president and the vice president may be impeached and removed, senators and congressmen may be expelled, Article III judges may be impeached, lower court judges that are elected may be removed, or not reelected, but a hired Article I judge whose position started as a referee, is accountable to no one. That is too silly for words, and shows the extent of the desire to cover up the misconduct. It is common knowledge that there have been Article III judges in prison: Claiborne , Hastings and H. Nixon come to mind...So does New York State Court of Appeals Chief Judge Sol Wachtler, Spiro Agnew Webster Hubbell, and almost Richard Nixon, and William Clinton. The *Judicial Conduct Reporter of the American Judicature Society , Vol. 22, No 1, (2000)* lists the State of California with the second highest number of judicial complaints in the nation. In the year 2000 there were 1233 complaints, of which 95% were or 1021 were dismissed, 2 judges resigned during the investigation , and 120 were carried over for the next year. In the words of the famous 1960 ties song: "I get my by with a little help from my friends". Not an admirable record in monitoring judicial conduct.

In *Bradley v Fisher Sup. Court 350 (Dec 1871)* This Honorable Court articulated the accountability to the judiciary:

> "In this country the judges of the superior courts of record are only responsible to the people, or the authorities constituted by the people, from whom they receive their commissions, for the manner in which they discharge the great trusts of their office . If in the exercise of the powers with which they are clothed as ministers of justice , they act with partiality, or maliciously, or corruptly , or arbitrarily, or oppressively , they may be called to an account by impeachment , or removal from office. "

In *Bivens v Sizx Unknown named Agents of the Federal Bureau of Narcotics, 400 U.S. 388 (1971)* , this Honorable Court held, quoting *Bell v Hood 327 U.S. 684 (1946)* "where legal rights have been invaded, a federal statute provides for a right to sue for such invasion, federal courts must use any available remedy to make good the wrong done" *Marbury v Madison , I Cranch 137, 163 (1803)* states that the very essence of civil liberty consists of the right of every individual to claim the protection of the laws whenever he receives an injury. "
In *Pierson v Ray 87 S. Ct 12121 (1967)* Justice Douglas noted:

> " I do not think that all judges , under all circumstances , no matter how outrageous their conduct , are immune from suit. It was often noted that immunity is given to crime and the records of the public tribunals are searched in vain for any evidence of effective redress. "

In *Judicial Impeachment, Mary L. Volcanek, Univ. of Ill. Press 167 (1993)* noted that : "the sleaze factors in certain judges cannot be ignored if the legitimacy of the system is to be preserved. "
Randall Newsome is not immune from suit, and his "sleaze and corruption" factor needs to be heard by a jury. It is a good thing that he is not, otherwise his outrageous conduct if it were immune would represent in the words of justice Douglas: "immunity given to crime."
28 U.S.C. #1251 holds that any additional judges appointed by this Honorable Court or the District Court serve only during good behavior. It is unequivocally true that respondent Newsome's good behavior -if it ever existed expired a very long time ago.

RANDALL NEWSOME HUNTED AND TERRORIZED PETITIONER TO ENABLE HIM TO EXTORT , STEAL AND CONVERT PETITIONER'S ASSETS ON BEHALF OF THE CRONIES, AND NOW HE IS TRYING TO ESCAPE ACCOUNTABILITY. **THIS APPEARS TO BE A MATTER OF FIRST IMPRESSION.**

Under the color of authority and in violation of all law, rights and common decency, respondent Newsome hunted and terrorized petitioner for the purpose of stealing her assets and giving them to Davis and the other cronies. He announced at the first encounter that he would do so and did. petitioner found no legal authority, under any tile, for this act of corrupt perversion in stealing someone's assets and give them to those favored, other than Hitler's handbook for Nazi conduct. There never was an evidentiary proceeding or a trial that might have given him authority, He makes his decision ex parte alone in his bunker or with his cronies. In the instant matter, Newsome who is really representing Davis and by extension the cronies, sent them bounty hunting for petitioners assets , and they were told they may keep. "they will eat what they hunt" In the process petitioner was hunted, burglarized-with Newsome's consent-terrorized, stalked insulted, humiliated, bullied, threatened , family threatened and harassed. Like all malfeasants Newsome , aware of his perfidy tries to hide his conduct. At work in the courtroom when he sees someone other than the participants he asks why they are there or who they are The title for the rapacious plunder of petitioners assets and couching it in legitimacy , was it is for the "estate". there never was an estate. Only waiting bounty hunting cronies. **In June 2000, Newsome was given by petitioner-under extraordinary duress - securities worth $450.000-$475.000. He ordered them sold on April 25, 2001, to benefit the "phantom estate" and due to the drop in the markets they allegedly brought $362.000. Of these, Davis and the burglar received $289.000 as "interim fees" and the phantom trustee cum procurer $50.000.The "pretend estate"? -zero. <u>Respondent Newsome must explain this extortion, theft, and conversion to a jury. This whole case was about stealing petitioner's assets for the cronies.</u> That is why petitioner could not withdraw her bankruptcy petition, or be part of a normal legal proceeding. Respondent Newsome who is a depraved predator saw petitioner as vulnerable and easy prey.**

RE JURISDICTION: RESPONDENT NEWSOME LACKED JURISDICTION TO ACT IN THE MATTER OF PETITIONER, AND TO EXTORT AND CONVERT HER ASSETS AND GIVE THEM TO HIS CRONIES, THERE WAS NO OPPONENT WITH STANDING, AND IT WAS ALL DONE THROUGH LARCENY AND FRAUD.

Jurisdiction does not translate to : "I want it" . Jurisdiction is determined through law , legal precedent, the public interest , the parties interests, and more. Newsome ignores all of that and is the ultimate decision maker: he ex parte decides his jurisdiction, anddid so in the matter involving petitioner. **But he did not have jurisdiction in the matter, and petitioner knew it. There was however no one willing to listen. There was not even a legitimate case: there was no party in interest with standing.** In bankruptcy a party in interest is defined as the debtor or the creditors. As indicated in the statement of facts , the bankruptcy case closed by the court, was reopened at the behest of the then former trustee without standing ,two years after closing . A scorned and angry former spouse promised the former trustee a bribe if he sought reopening to harass the petitioner. When the former trustee sought reopening in his motion to the court he said, that he was acting on behalf of "an interested party". A scorned ex spouse against whom one has numerous orders of protection does not meet the standard. The court reopened on that, but there was no party with legal standing to have qualified for that relief. The case was closed. The former trustee, an . attorney, was counting on collecting a quick bribe and the case would be closed. He solicited a bribe from petitioner as well. But the reopening was all a fraud with nothing substantive behind it. This Honorable Court has held that "the requirement that a party seeking relief must allege facts showing that he himself is adversely affected .Sierra *Club v Morton , 405 US 727 (1972),* and in *United States v Krass 409 US 434, (1975)* that bankruptcy has no rights. The rights belong to the debtor and the creditors. The Appellate Panel and the District Court both who were intentionally superficial in their review of this matter, assumed that respondent Newsome had jurisdiction and that there was an opponent with standing: .Both were not true **There was a scorned angry former spouse and a corrupt depraved predator, who hired as judge determined to torture petitioner and steal her assets for his cronies.**

Despite his assertions otherwise, Newsome did not have jurisdiction, but through noncompliance with the rules and the law and other malfeasance he created his own jurisdiction. When the transferred case landed in his "in" mailbox, that was not jurisdiction. Petitioner tried hard to get away from him , and point out that he did not have jurisdiction. But those that should have paid attention to it, did not. Now the District Court and the Appellate Panel have wrongfully concluded that Newsome had jurisdiction.

There might be another reason why jurisdiction was of no concern to Newsome : he thinks he was hired to be emperor or tzar and anyone with that title can do anything. Yet he is completely oblivious to what his job entails, that he is a hired public servant , that he may not practice law representing his cronies, and he had no authority to steal petitioner's assets and hand them to the cronies. He is guilty of larceny, massive fraud and corruption.

In: *Re Charge of Judicial Misconduct , 62 F 3rd , 320 (9th Cir. 1995)*

This Complaint -one of many filed against respondent Newsome was by an attorney named Morgan King, (Appendix). who is also an author and part time law school professor. This complaint was filed in 1995, and had the chief done what he should have done-help find respondent another job, because he is unfit for the present one, petitioner would not have encountered him four years later in 1999. Except for some minor factual differences, petitioner tells the same story as is the subject of the complaint. Newsome did not let Mr. King present his case, interrupted him 19 times, and was rude, abusive, discourteous , malicious. The same story is being presented by petitioner except multiplied, because of the misfortune of being in his presence numerous times. Petitioner had attached in the record the transcript of one hearing of April 25, 2001 (Summarized in Appendix) . Newsome representing his cronies Davis and the phantom trustee, argued with counsel for petitioner and there appear to be about 35 exchanges and interruption.

It is disturbing that the Chief Judge of the Ninth Circuit who surely is

an intelligent worldly man, has to make silly excuses for the likes as Newsome, like saying that the reason Newsome did not let Mr. King speak or present his case, is because he understood the argument and did not want to waste court time. That is unbecoming for a chief judge and patently false. He wastes time for his "favorites" all the time. There are numerous examples how shameless in his favoritism and abuse of job Newsome really is. On September 26 , 2000* there were to be deposition all around. Davis, the phantom trustee and petitioner place not yet determined. All around notices were mailed out. After mailing the notice petitioner traveled to the east coast, and sustained an accidental injury a dislocated shoulder, which required the wearing of a device to keep the shoulder in place. On return there was an exchange of faxes in which Davis insisted his choice of location, and so did petitioner, especially because of the accident, driving with one hand was tedious and unsafe, and the whole issue was who would drive 15 miles. Davis being the house favorite in the Newsome house, scheduled a hearing about this, and he sneered at petitioner about her not doing what Davis wants. As to the injured shoulder and driving with one hand, he sneered "take public transportation' Newsome used $700 of petitioners money to pay Davis for coming to court. Therefore Chief Wallace's statement that Newsome did not let Mr. King present his case, to save court time, is untrue, rings hollow and is self serving. the incident with Mr. King and legal fees, illustrates that Newsome manipulates bankruptcy money. In the case of of petitioner it is outright theft, and might be a crime, and that will require an inquiry. It is pathetically biased, and worthy of a public relations "spinner' to have Chief Judge Wallace state that yes Newsome did speak to another judge , and the other judge did not like complainant King either. First step is devalue the victim. Surely judge Wallace, in covering up for Newsome's misconduct , is aware that by the time deviant behavior is identified and complained about, it had been going on for a long time. When petitioner recognized that Newsome is a depraved malicious predator, she knew he had caused harm before. Whether he stole other people's money like in the matter at instant is not known yet. There is a new Chief Judge now in the Ninth Circuit, a lady named Mary Schroeder. Petitioner filed a complaint about respondent Newsome practicing law, and provided a copy of the one transcript (summarized in appendix). Her response:" he is just vigorous".

* in his record on appeal Newsome included the docket

THE APPELLATE PANEL APPEARS HOSTILE, DISMISSIVE AND SUPERFICIAL IN THEIR OPINION OF THE MATTER ALSO THEY VIOLATED PETITIONER'S RIGHT TO ORAL ARGUMENT PURSUANT TO F.R.A.P. #34

The appellate panel consisting of Judges Pamela Ann Rymer, Andrew J. Kleinfeld, and Richard A. Paez, started out with misstating the holding of the case that is right on point with the matter at instant *Cleavinger v Saxner , 474 US, 193 (1985)* and followed it with a couple of similar distortions and misstatements. This leads petitioner to the inescapable belief that the panel believed petitioner to be dumb and unaware, and these superficial inaccuracies will just not be noticed. That is very disturbing. After falsely saying that respondent Newsome is immune from suit and citing Cleavinger supra as standing for that proposition, (Appendix)the panel also stated regarding the extorted and stolen assets, and their conversion for the cronies, that" petitioner had not overcome the presumption of honesty and integrity by the decision maker". Yes she has, over, and over, and over loud and clear. This decision maker is corrupt to the core A presumption like that of honesty and integrity by the decision maker and that a judge is a judge, is the belief that turned out to be catastrophic and that brought petitioner in to the clutches of this depraved predator. **Newsome plunders assets of bankruptcy filers and estates on behalf of his cronies , and does so under false pretenses . That is a black and white proven fact.** What petitioner does not know yet-discovery would provide the evidence - how and whether he personally benefits. In the transcript of the hearing of April 21, 2001 in addition to evidence that Newsome practices law, there is also evidence that he makes decision in a bunker somewhere and comes to work, to read it. The hearing had an agenda, and petitioner was fortunate to have counsel for it so she would not have to be in his presence. She was outside, could hear his sneering and abusiveness toward counsel. There was another matter that was to be decided at a subsequent hearing , but Newsome said I have decided it already and I want to bring it up now. Counsel argued-the opponent was silent, he let Newsome speak for him. Counsel argued -he is a certified appellate specialist -about the local rules and the Constitution which both call for notice and a hearing.

There was not much more to do than agree to a hearing on May 16th. However Newsome being as disingenuous as he is, signed the order and his "home made decision" on that day of April 25, and filed it. The future hearing was a sham. The Appellate panel (Appendix) stated that petitioner agreed to the hearing on the May 16. There was nothing else to do .Besides any hearing was moot, as the decision had been filed on April 25, 2001.

Petitioner was wrongfully denied the right to oral argument by the panel. Oral argument is a right pursuant to FRAP # 34. The court had scheduled oral argument for March 13, 2003, but about 10 days before that date this panel apparently vetoed that Surely had the panel been interested in the facts it would not have cancelled oral argument. Not exactly acceptable . The Appellate panel appears to be rather hostile and superficial, and while petitioner expected de novo review and analytical understanding, this was not it.. Perhaps this is part of the Ninth Circuit Court of Appeals, culture of self protection.

THE DISTRICT COURT DISMISSAL WAS BASED ON MISSTATING THE FACTS AND THE LAW.

In erroneously holding that respondent Newsome is immune from suit, while hopefully knowing that this Honorable Court has held that he is immune from damages only, as in Cleavinger supra. The district Court cited *Mireles v Waco, 502 US 9(1991),* and a number of circuit decision for its holding: *More v Brewster 96 F 3rd 1240 (9th Cir. 1996), Bolin v Story 22 F 3rd 1234 (11th Cir 2000)* and a number of others all seeking damages. Therefore these cases were not applicable. The District Court used the wrong law and ignored the facts , just to dismiss.

CONCLUSION

The two major element of this claim have been satisfied: that respondent Newsome is not immune to suit, and that petitioner has provided evidence of grave harm to her, and misconduct, extortion theft, conversion on the part of respondent. Respondent is immune claims for damages, and petitioner seeks none.

The District Court and the Appellate Panel erroneously and possibly with wrongful intent assume that Randall Newsome had jurisdiction to terrorize petitioner. **He did not.** He did not pursuant to 11 USC #5010, he did not pursuant to 11 USC #707, & 727. There was no party in interest with standing on whose behalf this matter could be pursued. Newsome manipulated, deceived, hunted , terrorized and exploited the petitioner and created his own jurisdiction. In conspiracy with the cronies -bounty hunters to whom he promised petitioner's assets they acted in concert to seize, steal and convert them for themselves. Newsome took advantage of petitioner being new in the state under tragic circumstances, of being unfamiliar with crooks and monsters in black robes , of expecting a simple finalizing of a process and encountering vicious sharks, of being without counsel, the realization that other courts know , but ignore what goes on in bankruptcy courts. Petitioner was treated like coming to a nazi tribunal where . her Constitutional rights were trampled and sneered at and she was robbed, terrorized and insulted. The Appellate Panel stated that petitioner chose to transfer the matter to California, somehow implying that she therefore either deserved a crook, or should have known he would be there Wrong. . The United States Congress has sought to reform the bankruptcy system several times, to eliminate the "bankruptcy gangs"-the corrupt judges and lawyers from the process. Surely not easy, especially if the superiors and the Judicial Council cover up the misconduct.

Newsome looted petitioner's assets like a common criminal and that may ultimately require a criminal inquiry. But even under the best of circumstances he manipulates bankruptcy estate funds. There are names for that.

Petitioner respectfully pleads to this Honorable Court to grant this Writ of certiorari, as it is an offense to the Constitution to have a federal employee who took an oath to uphold it, so brazenly disregarded it. Petitioner also would hope that her rights are vindicated, as in the words of Justice Madison in *Marbury v Madison 1 Cranch 137 (1803)* : "the very essence of civil liberty consists of the right of every individual to claim the protection of the laws whenever he receives an injury. " Petitioner prays that this Honorable Court will grant a Writ of Certiorari.

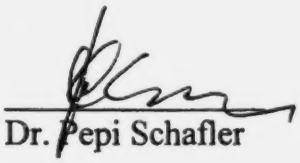
July 20, 2003

Submitted

Pepi Schafler, BA, MSSS, JD, PHD

CERTIFICATE OF COMPLIANCE
WITH SUPREME COURT RULE 33

Petitioner hereby declares that this petition complies with the type size in Rule 33, by being a point 12 Times New Roman size, in a Microsoft Window 98 program.



Dr. Pepi Schafler

APPENDIX

Order 9th Circuit Court of Appeals denying en bank rehearing

Order 9th Circuit Court of Appeals affirming lower court.

Order District Court dismissing claim

Judicial Council Complaint re misconduct by Respondent Newsome.

Summary of transcript of hearing April 25, 2001

Summary of conversion of petitioner's assets and their distribution to the cronies.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

PEPI SCHAFLER

Plaintiff-Appellant

Case No: 02-15169

v

RANDALL R. NEWSOME

Defendant-Appellee

ORDER

Petition for rehearing en banc is hereby denied.

Rymer, Kleinfeld and Paez

May 19, 2003.

Signed
Cathy Catterson
Clerk U.S. Court of Appeals

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Case No: 02-15619

PEPI SCHAFLER v RANDALL R. NEWSOME

Plaintiff-Appellant Defendant-Appellee

Submitted March 13, 2003 **

Before : Pamela Ann Rymer, Andrew J. Kleinfeld , and
Rchard A. Paez

Schafler appeals an order of the District Court dismissing her claim against bankruptcy court judge Randall Newsome.Appellant asserts several violations of her constituional rights as a result of the decisions of the bankruptcy court. we do not review them since they were not presented in the District court. Finally , appellant brings allegations of bias and corruption against bankruptcy court judge Randall J. Newsome . Federal judges are entiled to absolutre immunity for all judicial acts unless they act entirely without jurisdiction. Cleavinger v Saxner, 474 U.S. 193 (1985) " Such immunity applies however erroneous the act may have been , and however injurious to the plaintiff. Newsome was properly vested with jurisdiction , as a result of Appellant's transfer of her case to the Northern District of california, from Maryland. The dismissal odf appellant's suit against judge Newsome is affirmed.

**this panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P 34 (a) (2).

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
Case No: C-01-4943 PJH

PEPI SCHAFLER

Plaintiff

v

RANDALL R. NEWSOME

Defendant

Judge Phyllis J. Hamilton
Presiding

The District Court states that petitrioner is seeking equitable relief only, and no damages. Defendant sought dismissal on a F.R. C.P. #12 (b) (6) motion for failure to state a claim, and that he has absolute immunity. The Court cited several cases all standing for judicial immunity from damages, not suit . The Court concluded that Defendant -Respondent Newsome has absolute immunity.

Dated: March 20, 2002

s/s Phyllis J. Hamilton
District Court Judge

IN RE CHARGE OF JUDICIAL MISCONDUCT*
62 F 3rd 320 (9th Cir1995)

Before J. Clifford Wallace , Chief Judge

ORDER.

A complaint of misconduct has been filed against a bankruptcy judge of this circuit. Administrative consideration of such complaints is governed by the Rules of the Judicial Council of the Ninth Circuit Governing Complaints of Judicial Misconduct and Disabilities, (Misconduct rules) issued pursuant to the Judicial Council's Reform and Judicial Conduct and Disability Act of 1980. 28 U.S.C. # 372 (e)

Complainant, who represented the debtor in a bankruptcy case, charges that the bankruptcy judge committed misconduct by violating Canon 3 (A)(3) of the Code of Conduct for United States judges , which states that a judge should be patient and courteous to litigants , by interrupting complainant's oral argument. Complainant states that he was "repeatedly cut off " , and interrupted by the judge in a discourteous , abrupt ,impatient harsh and unfair manner at least 19 times in two separate hearings. ", thus making it impossible to present a decent rebuttal. " Complainant also charges that the bankruptcy judge violated Cannon 3 (A) (4) which states that a judge should avoid certain ex parte communications., by discussing the complainant's handling of post -petition legal fees with another bankruptcy judge.

Judges recitation of the Cannon his interpretation of same and the " excuse factory" for several paragraphs omitted .

While perhaps a judges rudeness could be so egregious as to constitute . misconduct under the Act, the incidents at issue here do not rise to that level. Whether or not the bankruptcy judge demonstrated a lack of courtesy inconsistent with Canon 3(A)(3) as alleged in the complaint, not an issue I can or should decide here. Complainant has not shown that the bankruptcy judges behavior interfered with the effective and expeditious administration of the courts. Misconduct Rule 4 (c) (1); 28 U.S.C. 372 (c) (1) Although complainant alleges he was not allowed to present an effective rebuttal, the record shows that the bankruptcy judge understood complainant's a argument but was not persuaded by it. A reasonable explanation is that the bankruptcy judge prevented complainant from wasting the court's time pursuing a fruitless line of argument.

This act was well within the bankruptcy judge's discretion. This charge is therefore dismissed. Similarly as to complainant's second charge ,the record shows to another bankruptcy judge about complainant's actions , and the other judge was critical of complainant. The record fails to show ,however that the bankruptcy judge relied on the bankruptcy judges opinion. He ruled against complainant only after complainant admitted to wrong doing in open court Again there is no evidence that the judge's actions was "prejudicial to the effective and expeditious administration of the business of the courts". Indeed even under the higher ethical guidelines of the Code of Conduct on which complainant purports o rely, judges are allowed to consult with each other about pending cases. This charge is therefore dismissed.

This is not to say the Cannons are not important. They are . As a judiciary, we should do all we can to educate and motivate judges to achieve the aspirational goals of the Cannon. But the judicial misconduct procedures were not meant to be nor are they designed to enforce those goals. Complaint dismissed.

* the complainant is named Morgan King, is in addition to an attorney also an author, and law school lecturer , and is located in Dublin, California. Petitioner has spoken to him.

UNITED STATES BANKRUPTCY COURT. FOR THE NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

RICHARD J SPEAR

Plaintiff

v

PEPI SCHAFLER

Defendant

Case No: 99-42138-NS

Judge Randall R. Newsome

hearing 2.pm. April 25, 2001

Summary of transcript : 49 pages

Counsel for phantom trustee Spear, Dennis D.Davis
Counsel for Dennis D. Davis , Randall R. Newsome
Counsel for Schafler Charles DelArio

Verbal exchanges or Voleys: Spear & anyone 0
Davis and Newsome 2.
Randall Newsome v Charles DelArio 35

Newsome told DelArio that he had already decided a matter not scheduled for this date , but for some future time; to DelArio's complaints and assertions about the rules providing for notice etc he made sarcastic remarks, said in the end submit papers, abut in fact signed the order with his decision on that day.

Newsome told Charles DelArio that the first time he encountered petitioner he told her that her assets would be given to Davis, Spear and other cronies.

Like others before her petitioner c filed a complaint of judicial misconduct to the Judicial Council of the Ninth Circuit, and enclosed a full copy of the transcript. A different Chief Judge a lady named Mary Schroeder wrote back that ".Newsome's conduct is vigorous"

PETITIONER'S PLUNDERED ASSETS AND THEIR LARCENOUS CONVERSION TO THE CRONIES A SUMMARY

This summary is extrapolated from the Record on Appeal , and covers approximately 200 pages . 130 from 186-316 pages constitute a request for $269 .000 **for interim "fees " by Dennis Davis , and the statutory fee of $50.000 for the phantom trustee. For the creditors discharged in July 1996 -ZERO.**

In June 2000 extorted and seized from petitioner $450.000-$475.000 in securities including petitioner's IRA.

Saying his cronies -he called them the "estate " has waited long enough for their bounty, he ordered them sold on April 25. 2001 and Davis and the phantom trustee received their requested money. Davis had to write 130 or more pages of lies to provide some "cover' validity for Newsome to give him this money.

Included $140.000 for a "trial" there never was a trial. Since Newsome the docket with his pleading it is easily verified that there never was a trial or even an evidentiary hearing

$7.500 for the burglar

$ 6.500 for keeping the scorned ex spouse posted petitioner has had numerous orders of protection against him, but this more convenient.

$2.200 for defending Newsome. petitioner has sought his recusal which he of course did not do. Davis defended him and Newsome paid him for that with petitioner's money. The California Bar association ethics committee considered this a bribe.

$45.000 for "tracing"

Petitioner reconfigured the "fee cum theft request" pages 113-185 and not surprising the same entries are made twice, three time, even four and five times ,but obfuscated through many pages. Not surprising since the whole thing represents a crime. This is the "anatomy" of a crime. It was a challenge to write figures and activities in a case where the only thing going on was terrorizing petitioner and rob her of her assets.

Supreme Court, U.S.
FILED

CA: NO 02-15619 03 423 AUG 2 2003

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IN THE
SUPREME COURT OF THE UNITED STATES

PEPI SCHAFLER

Petitioner

v

RANDALL R. NEWSOME

Respondent

On Petition for Writ of Certiorari
To the Ninth Circuit Court of Appeals

AMENDED APPENDIX

TO PETITION FOR WRIT OF CERTIORARI

Pepi Schafler, BA, MSSS, JD, PhD
642 Preakness Drive,
Walnut Creek, California 94596
Telephone : 925-938-8743
Telefax: 925-938-6026

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PEPI SCHAFLER
Plaintiff

No. C-01-4943 PJH

v

RANDALL R. NEWSOME
Defendant

JUDGMENT

_____/

This action came on for hearing before the court, the honorable Phyllis J. Hamilton presiding, and the issues having been duly heard , and a decision having been duly rendered ,
It is Ordered and Adjudged
that the plaintiff Pepi Schafler take nothing, and that the action be dismissed on the merits .
Dated March 20, 2002

ss/Phyllis Hamilton
United States District Judge.

ORDER RE MOTION TO DISMISS

Defendant's motion for an order to dismiss the complaint came on for hearing on March 20 2002, before the court the Honorable Phyllis J, Hamilton presiding. Plaintiff appeared in propria persona, and defendant appeared by this counsel , Assistant United States Attorney Scott T. Nonaka .Having read the parties papers and carefully considered their argument and the relevant legal authority, and good cause appearing , the court hereby grants defendant's motion for the following reasons:
Defendant Randall Newsome is United States bankruptcy judge . Plaintiff Pepi Schafler is a debtor in related bankruptcy actions that were pending before judge Newsome. Plaintiff asserts twenty one claims arising from Newsome's alleged actions in these bankruptcy actions. In particular , plaintiff accuses Newsome of bias , corruption, abuse of authority , and violation of her constitutional rights, claiming that he improperly "seized " all her assets. Plaintiff seeks equitable relief only, not money damages. Defendant now seeks an order pursuant to Federal Rule of Civil Procedure 12 (b) (6) dismissing the complaint for failure to state a claim. A court should dismiss for failure to state a claim under Rule 12 (b) (6) only where "it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which

would entitle him to relief."*Conley v Gibson, 355 U.S. 41, (1957) Madison & Sutro v lerner 31 F3rd 924 (9th Cir 1994).* In assessing the motion the court must accept as true the factual allegations of the complaint , and must construe them in the light most favorable to the non moving party. *National Wildlife Federation v Espy, 45 F 3rd 1337 (9th Cir, 1995).*Federal courts are particularly liberal in construing "inartful pleading by parties appearing pro se .*Hughes v Rowe ,449 U.S. 5, 9, (1990)* . In dismissing for failure to state a claim, "a district court should grant leave to amend even if no request to amend the pleading has been made , unless it determines that the pleading could not possibly be cured by the allegation of other facts" *Doe v United States , 58 3rd 494, (9th Cir 1995), (quoting Cook , Perkiss 7 Liehe , Inc v N. Cal . Coll Serv Inc , 911 F 2nd 242 , 247 9th Cir 1990).*

The court finds that this action must be dismissed because judge Newsome is entitled to absolute immunity. A federal judge is absolutely immune from civil liability for acts performed in his judicial capacity. unlike the judicial immunity available to state judges sued under 42 USC # 1983, a federal judge's immunity is not limited from damages , but extends to actions for declaratory , injunctive and other equitable relief. *Moore v Brewster, 96 F 3rd 1240 (9th Cir 1996),*cert denied *519 US 1118 (1997), Mullis v U.S. Bankruptcy Court, 828 F 2nd 1385 (9th Cir 1987)* cert denied *486 US 1040 (1988).* In the event that a federal judge violates a litigant's constitutional rights in a proceeding pending in federal court, Congress has provided carefully structured procedures for taking appeals and for petitioning for extraordinary writs in Title 28,of the United States Code .*Mullis 828 F 2nd at 1394.*

Judicial immunity generally is overcome only in two sets of circumstances .First a judge is not immune from liability for nonjudicial actions -that is ,actions not taken in the judge's judicial capacity. *Forrester v White , 484 US 219 227-229(1988) Stump v Sparkman , 435 US 349 360 (1978)* Second , a judge is not immune for actions , through judicial in nature , taken in the complete absence of jurisdiction .*Mireles v Waco 502 US 9 1991)* citing *Forrester 484 US at 356-357.*

As long as the judge has jurisdiction to perform the "general act" in question , he or she is immune however erroneous the act may have been , however injurious the consequences of the act may have been, and irrespective of the judge's claimed motivation. *Harvey v Waldron 210 F 3d 1008, 1012 (9th Cir 2000).*

Because the allegations in the complain all relate to actions taken by Newsome in his judicial capacity , actions that were well within his jurisdiction , plaintiff's claims are barred by judicial immunity. Accordingly the motion for an order dismissing the complaint is granted. Further, the court finds that the pleading cannot possibly be cured by the allegation of other facts , and that the amendment would therefore be pointless . Accordingly , the dismissal is with prejudice.

This order terminates the case and any pending motions. The clerk is ordered to close the file. It is so ordered .

May 20, 2002

ss/'Phyllis J. Hamilton
United States District Judge